

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**LEE WILLIAMS,
Plaintiff,**

vs.

9:10-CV-0635

**D.E. LACLAIR, Superintendent,
Franklin Correctional Facility, and
S. BROWN, Deputy Superintendent for
Security,**

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 was referred to the Honorable Randolph F. Treece, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

Magistrate Judge Treece denied Plaintiff's request for recusal. Magistrate Judge Treece also directed Plaintiff to serve adequate mandatory disclosures upon Defendants' counsel by February 22, 2013. If such disclosures were not served, Defendants were to file a status report with the Court. Magistrate Judge Treece further warned Plaintiff that failure to file such disclosures by February 22, 2013, could result in dismissal of this action. Magistrate Judge Treece granted Defendants' Motion (Dkt. 51) brought pursuant to Rule 37(b). Magistrate Judge Treece recommended that: (1) to the extent Defendants' motion is construed as brought pursuant to Rule 41(b), it should be

granted; and (2) the action should be dismissed if Plaintiff fails to comply with the February 22, 2013, disclosure deadline.

Plaintiff subsequently filed a motion for an extension of time to comply with Magistrate Judge Treece's disclosure deadline. Dkt. No. 63. This motion was granted in part and the disclosure deadline was extended to March 5, 2013. Plaintiff also filed timely objections to the Report-Recommendation, essentially raising the same arguments presented to the Magistrate Judge. Plaintiff failed to comply with the extended discovery compliance deadline, and Defendants filed a Status Report on March 8, 2013, (Dkt. 66) reflecting Plaintiff's non-compliance.

When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

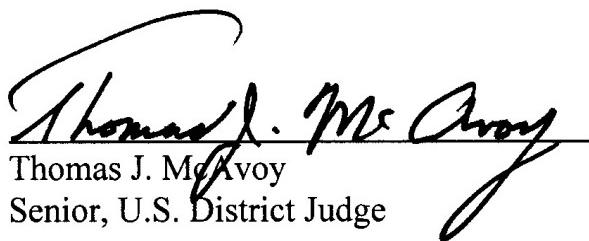
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff's objections, this Court has determined to accept and adopt in its entirety the recommendation of Magistrate Judge Treece for the reasons stated in the Report-Recommendation due to Plaintiff's failure to comply with the March 5, 2013, discovery disclosure deadline.

It is therefore **ORDERED** that the denial of the recusal request set forth in the Report-Recommendation is AFFIRMED. Further, it is **ORDERED** that Plaintiff's

amended complaint is DISMISSED in its entirety pursuant for Fed. R. Civ. P. 41(b) for failure to comply with the March 5, 2013 discovery deadline.

IT IS SO ORDERED.

Dated: March 22, 2013



The image shows a handwritten signature in black ink, which appears to read "Thomas J. McAvoy". Below the signature, there is a horizontal line. Underneath the line, the name "Thomas J. McAvoy" is printed in a standard black font. Below that, it says "Senior, U.S. District Judge".

Thomas J. McAvoy
Senior, U.S. District Judge